

UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner:

Group:

Attorney Docket #.: 3812

In re:

Applicant(s): AWENGEN, D., et al

Serial No.: 10/586,718

Filed: 12/13/2004

PETITION UNDER 37 CFR 1.182 TO CORRECT TRANSMITTAL LETTER

January 9, 2008

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Attn: Office of PCT Legal Administration

Reference is made to the communication from the Office of PCT Legal Administration dated December 19, 2007, of which a copy is attached for ease of reference.


Applicant now petitions for an Order accepting a corrected transmittal letter.

The originally filed transmittal letter was apparently belonging to another case and was submitted inadvertently and without deceptive intent.

Applicant now attaches hereto a correct transmittal letter and respectfully requests that same be substituted for the originally filed transmittal letter.

It is further requested that any fee, including the petition fee, be debited to the account of the undersigned #19-4675.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743



UNITED STATES PATENT AND TRADEMARK OFFICE

19 DEC 2007

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

In re Application of AWENGEN et al
U.S. Application No.: 10/586,718
PCT Application No.: PCT/EP2004/014189
Int. Filing Date: 13 December 2004
Priority Date Claimed: 06 March 2004
Attorney Docket No.: 3812
For: CATIONIC NAPHTHYLDIAZO DYES AND
AGENTS CONTAINING SAID DYES USED
TO COLOUR KERATIN FIBRES

COMMUNICATION

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 13 December 2004, applicant filed international application PCT/EP2004/014189, which claimed priority of an earlier Germany application filed 06 March 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 15 September 2005. The thirty-month period for paying the basic national fee in the United States expired on 06 September 2006.

On 20 July 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

DISCUSSION

The filing date, priority date, title of invention, and names of applicants listed on the transmittal letter (Form PTO-1390) filed 13 December 2004 are inconsistent with the corresponding data published for international application number PCT/EP2004/014189.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this communication, resolving the discrepancies noted above. A proper response may include an appropriate petition under 37 CFR 1.182 to correct the transmittal letter. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303

Facsimile: 571-273-0459

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A SUBMISSION UNDER 35 U.S.C. 371**

ATTORNEY'S DOCKET NUMBER

3812

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

INTERNATIONAL APPLICATION NO.
PCT/EP 2005/000528

INTERNATIONAL FILING DATE
01/20/2005

PRIORITY DATE CLAIMED
01/23/2004

TITLE OF INVENTION

AUDITORY OSSICLE PROSTHESIS WITH TUNING OPTION

APPLICANT(S) FOR DO/EO/US

Daniel Felix aWENGEN, Uwe STEINHARDT

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☒ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (25) indicated below.
4. ☒ The US has been elected (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371 (c)(2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☒ has been communicated by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☒ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☒ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).
11. ☐ A copy of the International Preliminary Examination Report (PCT/IPEA/409).
12. ☒ A copy of the International Search Report (PCT/ISA/210).

Items 13 to 23 below concern document(s) or information included:

13. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
14. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
15. ☒ A **FIRST** preliminary amendment.
16. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
17. ☐ An Application Data Sheet under 37 CFR 1.76.
18. ☐ A substitute specification.
19. ☐ A power of attorney and/or change of address letter.
20. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825.
21. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
22. ☐ A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4).
23. ☐ Express Mail Label No.

U.S. APPLICATION NO (if known, see 37 CFR 1.5)

INTERNATIONAL APPLICATION NO.

ATTORNEY'S DOCKET NUMBER

PCT/EP 2005/000528

3812

24. Other items or information:

The following fees have been submitted:

25. ☒ Basic national fee (37 CFR 1.492(a)). \$310

	CALCULATIONS	PTO USE												
25. <input checked="" type="checkbox"/> Basic national fee (37 CFR 1.492(a)). \$310	\$ \$310.00													
26. <input checked="" type="checkbox"/> Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article All other situations. \$0	\$ \$200.00													
27. <input checked="" type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the International preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4). . . \$0 Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority. \$100 International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB. \$410 All other situations. \$510	\$ \$500.00													
TOTAL OF 25, 26 and 27 =	\$ \$1,010.00													
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) in an electronic medium or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is \$260 for each additional 50 sheets of paper or fraction thereof.														
<table border="1"> <thead> <tr> <th>Total Sheets</th> <th>Extra Sheets</th> <th>Number of each additional 50 or fraction thereof (round up to a whole)</th> <th>RATE</th> </tr> </thead> <tbody> <tr> <td>- 100 =</td> <td>0 /50 =</td> <td>0</td> <td>x \$250.00</td> </tr> </tbody> </table>	Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)	RATE	- 100 =	0 /50 =	0	x \$250.00	\$ \$0.00					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)	RATE											
- 100 =	0 /50 =	0	x \$250.00											
Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).	\$													
<table border="1"> <thead> <tr> <th>CLAIMS</th> <th>NUMBER FILED</th> <th>NUMBER EXTRA</th> <th>RATE</th> </tr> </thead> <tbody> <tr> <td>Total claims</td> <td>20 - 20 =</td> <td>0</td> <td>x \$50.00</td> </tr> <tr> <td>Independent claims</td> <td>1 - 3 =</td> <td>0</td> <td>x \$200.00</td> </tr> </tbody> </table>	CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	Total claims	20 - 20 =	0	x \$50.00	Independent claims	1 - 3 =	0	x \$200.00	\$ \$0.00	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE											
Total claims	20 - 20 =	0	x \$50.00											
Independent claims	1 - 3 =	0	x \$200.00											
MULTIPLE DEPENDENT CLAIMS (if applicable) <input type="checkbox"/> + \$360.00	\$ \$0.00													
TOTAL OF ABOVE CALCULATIONS =	\$ \$1,010.00													
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.	\$ \$505.00													
SUBTOTAL =	\$ \$505.00													
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).	\$ \$0.00													
TOTAL NATIONAL FEE =	\$ \$505.00													
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +	\$ \$0.00													
TOTAL FEES ENCLOSED =	\$ \$505.00													
	Amount to be \$													
	Amount to be \$													

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 3/31/2007. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

- a. ☐ A check in the amount of \$ _____ to cover the above fees is enclosed.
- b. ☒ Please charge my Deposit Account No. 194675 in the amount of \$ \$505.00 to cover the above fees.
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 194675. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038. The PTO-2038 should only be mailed or faxed to the USPTO. However, when paying the basic national fee, the PTO-2038 may NOT be faxed to the USPTO.

ADVISORY: If filing by EFS-Web, do NOT attach the PTO-2038 form as a PDF along with your EFS-Web submission.
Please

be advised that this is not recommended and by doing so your credit card information may be displayed via PAIR. To

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743


SIGNATURE

MICHAEL J. STRIKER

NAME

27233

REGISTRATION NUMBER

1/9/08
DATE